

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Civ. No. 06-933 RB/RHS

99,223.7238 ACRES OF LAND, MORE OR
LESS, IN SANDOVAL and RIO ARRIBA
COUNTIES, NEW MEXICO, and J.B.
HARRELL, JR.,

Defendants.

**ORDER ADOPTING
REPORT AND RECOMMENDATIONS**

THIS MATTER came before the Court on the request of the respective parties for an examination of prospective Commissioners pursuant to Fed. R. Civ. P. 71(h)(2)(C). The trial court entered an Order of Reference (docket no. 138) which was filed on August 18, 2008, and designated the Honorable Robert Hayes Scott, United States Magistrate Judge, to conduct a hearing to determine if the parties have a basis to challenge for cause the appointment of the proposed Commissioners. A hearing was conducted on September 19, 2008, with the parties appearing by and through their respective counsel of record. At that time, counsel agreed that they would provide the Court with objections, if any, on or before September 24, 2008.

Subsequent thereto, the Plaintiff advised Judge Scott that it did not object to Defendants' proposed Commissioner, C. Ronald Platt, or Defendants' proposed Alternate Commissioner, James W. Boyd. Defendants did object to the appointment of Thomas V. Boyer as an Alternate Commissioner. After consideration of the objections of the Defendants to the appointment of

Thomas V. Boyer as an Alternate Commissioner to the Honorable Harold W. McKee, Judge Scott recommended that the trial court deny the objections and appoint Mr. Boyer as an Alternate Commissioner. There have been no objections received to the Report and Recommendations (docket no. 147) and therefore the Court concludes that the same should be approved.

IT IS THEREFORE ORDERED that the Report and Recommendations (docket no. 147) of the United States Magistrate Judge are hereby approved and adopted by the Order of the Court.

IT IS FURTHER ORDERED that the Defendants' objections to the appointment of Thomas V. Boyer as Alternative Commissioner for the Honorable Harold W. McKee are hereby denied.

IT IS FURTHER ORDERED that the Commission shall be constituted as follows:

- A. The Honorable Leslie C. Smith shall serve as Chairman of the Commission.
- B. C. Ronald Platt is hereby appointed as a Commissioner and Mr. James W. Boyd shall serve as Mr. Platt's Alternate Commissioner to serve in the event that Mr. Boyd is unable to discharge his duties as Commissioner.
- C. The Honorable Harold W. McKee is hereby appointed as Commissioner.
- D. Thomas V. Boyer is hereby appointed as Judge McKee's Alternate Commissioner to serve in the event that Judge McKee is unable to discharge his duties as Commissioner.



HONORABLE ROBERT C. BRACK
UNITED STATES DISTRICT JUDGE